

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Amgad Fawzy	Team: Team # 3	CCRB Case #: 201202447	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 01/14/2012 7:30 AM	Location of Incident: § 87(2)(b) and the 79th Precinct stationhouse	Precinct: 79	18 Mo. SOL 7/14/2013	EO SOL 7/14/2013	
Date/Time CV Reported Mon, 02/20/2012 12:01 PM	CV Reported At: CCRB	How CV Reported: Mail	Date/Time Received at CCRB Thu, 02/23/2012 12:13 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Charne Jimenez	00425	940304	PBBN AC
2. SGT Terrell Anderson	00478	933551	PBBN AC
3. POM Alexandro Berrios	29758	929719	079 PCT
4. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Brian Moncayo	14685	939053	PBBN AC

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Abuse: Officers entered and searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B. POM Charne Jimenez	Discourtesy: At § 87(2)(b) in Brooklyn, PO Charne Jimenez spoke rudely to § 87(2)(b)	§ 87(2)(b)
C. SGT Terrell Anderson	Discourtesy: At § 87(2)(b) in Brooklyn, Sgt. Terrell Anderson spoke rudely to § 87(2)(b)	§ 87(2)(b)
D. POM Charne Jimenez	Abuse: At § 87(2)(b) in Brooklyn, PO Charne Jimenez refused to show a search warrant to § 87(2)(b)	§ 87(2)(b)
E. POM Charne Jimenez	Force: At § 87(2)(b) in Brooklyn, PO Charne Jimenez used physical force against § 87(2)(b)	§ 87(2)(b)
F. POM Alexandro Berrios	Abuse: At the 79th Precinct stationhouse, PO Alexandro Berrios did not obtain medical treatment for § 87(2)(b)	§ 87(2)(b)

Case Summary

On February 20, 2012, § 87(2)(b) filed this complaint by mail with the CCRB (encl. 3a-3c).

On January 14, 2012, Sgt. Terrell Anderson and PO Charne Jimenez participated in the execution of a search warrant at § 87(2)(b) in Brooklyn. The following allegations resulted:

- **Allegation A – Abuse of Authority: Officers entered and searched § 87(2)(b) in Brooklyn.**
§ 87(2)(b), § 87(2)(g)
- **Allegation B – Discourtesy: At § 87(2)(b) in Brooklyn, PO Charne Jimenez spoke rudely to § 87(2)(b)**
- **Allegation C - Discourtesy: At § 87(2)(b) in Brooklyn, Sgt. Terrell Anderson spoke rudely to § 87(2)(b)**
§ 87(2)(b), § 87(2)(g)
- **Allegation D – Abuse of Authority: At § 87(2)(b) in Brooklyn, PO Charne Jimenez refused to show a search warrant to § 87(2)(b)**
§ 87(2)(b), § 87(2)(g)
- **Allegation E – Force: At § 87(2)(b) in Brooklyn, PO Charne Jimenez used physical force against § 87(2)(b)**
§ 87(2)(b), § 87(2)(g)
- **Allegation F – Abuse of Authority: At the 79th Precinct stationhouse, PO Alexandro Berrios failed to obtain medical treatment for § 87(2)(b)**
§ 87(2)(b), § 87(2)(g)

This case was originally assigned to Investigator Max Gross on February 24, 2012. It was reassigned to Investigator Amgad Fawzy on September 5, 2012, upon Investigator Gross's departure from the agency (encl. 21a-21h).

Results of Investigation

Civilian Statement

Complainant: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b).

Arrest Photograph

§ 87(2)(b)'s arrest photograph shows no visible injuries on his face, head or neck (encl. 10a).

Original CCRB Complaint

§ 87(2)(b) mailed a letter to the CCRB on February 23, 2012 (encl. 3a-3c).

The contents of this letter were inconsistent with § 87(2)(b)'s sworn statement. Omissions and exceptions are noted below.

§ 87(2)(b) made no mention of any officer striking him with a closed fist. He alleges no

force except to say that he was thrown to the floor and handcuffed by the first officers to enter the premises. Likewise, § 87(2)(b) makes no allegations of discourteous language by any officer. He quotes one officer as stating, “This is what we came for!” upon finding a .380-caliber pistol on the premises.

Notice of Claim Form

§ 87(2)(b) filed a Notice of Claim with the City of New York on § 87(2)(b) (encl. 21a-21d).

In the narrative section, § 87(2)(b) stated that officers from the 79th Precinct subjected him to retaliatory police brutality and harassment between February 2011 and January 2012. He is claiming mental and emotional distress, as well as property damage stemming from police interactions in February 2011, March 2011, September 2011 and on January 14, 2012. § 87(2)(b) did not provide any details regarding any of those interactions. He made no mention of physical force being used against him on January 14, 2012.

CCRB Testimony

§ 87(2)(b) was interviewed on March 26, 2012 at the § 87(2)(b) (encl. 5a-5d).

At approximately 6:30 a.m. on January 14, 2012, § 87(2)(b) and his girlfriend § 87(2)(b) were asleep in the third-story bedroom of his private house at § 87(2)(b) in Brooklyn. His son, § 87(2)(b) was sleeping in another bedroom on the third floor with his girlfriend, § 87(2)(b). § 87(2)(b) § 87(2)(b)'s father, § 87(2)(b) was asleep in a bedroom on the second floor. The first story and basement apartment were occupied by § 87(2)(b)'s niece, § 87(2)(b) and her three children, who range in age from § 87(2)(b).

At some time between the hours of 6:30 a.m. and 8:30 a.m., § 87(2)(b) was awoken by his dog barking at the front door. When he went downstairs, he observed two officers in ballistics helmets holding M1 assault rifles and attempting to break open the metal gate in front of the door. § 87(2)(b) opened the wooden front door and the front gate to allow them entry.

Two Emergency Service Unit (ESU) officers then entered, followed by four plainclothes officers identified by the investigation as PO Juan Montes, PO Charne Jimenez, PO Brian Moncayo and Sgt. Terrell Anderson, all of Patrol Borough Brooklyn North Anti-Crime (PBBN AC). They were followed by two additional officers in business attire, identified by the investigation as Capt. George Mifsud and Sgt. Patrick McCarthy of PBBN AC.

The two ESU officers forced § 87(2)(b) to the ground near the front entrance and handcuffed him. They then placed him in a seated position on the couch and walked through every room in the house. After that, they departed, leaving behind PO Montes, PO Jimenez, PO Moncayo, Sgt. Anderson, Capt. Mifsud and Sgt. McCarthy. PO Moncayo remained with § 87(2)(b) for approximately one hour while the other officers went elsewhere in the house.

§ 87(2)(b) believes that approximately two ounces of marijuana were recovered in the basement shortly after the officers entered. PO Jimenez then approached § 87(2)(b) and asked him, “Where’s the drugs? Where’s the gun? Come on, we’re trying to get out of here. We ain’t got time to be bullshitting with you. Where’s the gun? Where’s the fucking gun?” In response, § 87(2)(b) asked PO Jimenez, “Do you have a warrant?” PO Jimenez replied, “Sure,” and showed him what appeared to be a photograph of him with writing underneath.

§ 87(2)(b) asked PO Jimenez if he could examine the document more closely, but PO Jimenez replied, “No, you can’t see it again. Don’t worry. Your lawyer will get a copy.” PO Jimenez then went to the basement, after which he returned with a .380-caliber pistol and presented it to § 87(2)(b). Sgt. Anderson then stated, “I thought you didn’t have anything.” PO Jimenez then swung at § 87(2)(b) three times with a closed fist. He was able to dodge two of the blows, but the third

struck him above the right eye, causing swelling.

§ 87(2)(b) made no physical movements, nor did he attempt to stand up, before PO Jimenez struck him. He and § 87(2)(b) were then transported to the 79th Precinct stationhouse. Once he was placed in the cells, § 87(2)(b) said to an officer seated behind a desk, “I need to see a doctor. I need the paramedics.” § 87(2)(b) described this officer as a young black male uniformed officer of average height and weight.

This officer has been identified by the investigation as PO Alexandro Berrios of the 79th Precinct, based on this physical description and on PO Berrios’s assignment on the date of the incident. PO Berrios replied, “Okay, we’ll get someone down here.” § 87(2)(b) remained at the stationhouse for approximately 8 hours before he was transported to Brooklyn Central Booking (BCB), and was never provided with medical treatment. From BCB, § 87(2)(b) was taken to § 87(2)(b)

Attempts to Contact Civilians

§ 87(2)(b) Contact was established with § 87(2)(b) on May 17, 2012 and agreed to provide a sworn statement on May 21, 2012. He missed this appointment without calling in advance to cancel or reschedule. Contact was reestablished with him on October 4, 2012 and his statement was rescheduled for October 12, 2012. § 87(2)(b) missed his appointment without calling in advance to cancel or reschedule.

NYPD Statements:

Subject Officer: PO CHARNE JIMENEZ

- *PO Charne Jimenez is a § 87(2)(b).*
- *On January 14, 2012, PO Jimenez worked between the hours of 4:30 a.m. and 12:05 p.m. He was in plainclothes, assigned to PBBN AC in an unmarked Ford Crown Victoria, RMP # 8868. He was working with Sgt. Terrell Anderson and PO Brian Moncayo of the same command.*

OLBS Worksheet

The OLBS Worksheet prepared for § 87(2)(b) indicates that a .380 caliber firearm and two ounces of marijuana were recovered from § 87(2)(b)’s possession pursuant to § 87(2)(b). The worksheet also indicates that no physical force was used, and lists PO Jimenez as the arresting officer (encl. 6a-6c).

Memo Book

PO Jimenez reported for duty at the 77th Precinct stationhouse at 4:40 a.m. At 5:20 a.m., he was en route to the 79th Precinct stationhouse with Sgt. Anderson to retrieve a tactical plan. The two arrived at the 79th Precinct stationhouse at 5:35 a.m. At 6:35 a.m., they were en route to § 87(2)(b) to execute search warrant § 87(2)(b).

At 7 a.m., ESU officers gained entry to the premises. At 8:30 a.m., two individuals were placed under arrest at the location, and a firearm was recovered. At 8:40 a.m., PO Jimenez arrived at the 79th Precinct stationhouse to process those arrests. He then returned to the 77th Precinct stationhouse at 12:30 p.m. (encl. 6p-6s).

CCRB Testimony

PO Charne Jimenez was interviewed at the CCRB on February 5, 2013 (encl. 6t-6v).

At approximately 7 a.m. on January 14, 2012, approximately eight to 10 ESU officers gained entry to § 87(2)(b) in Brooklyn. After they informed PO Jimenez that it was safe to do so, he

entered the location, followed by Sgt. Terrell Anderson and a captain identified by the investigation as Capt. George Mifsud.

Upon entering the house, PO Jimenez observed § 87(2)(b) lying on the floor in a vestibule on the first floor, already in handcuffs. As PO Jimenez approached § 87(2)(b) an unidentified ESU officer helped § 87(2)(b) to his feet. PO Jimenez then escorted § 87(2)(b) to the living room and placed him on the sofa in a seated position. While on the sofa, § 87(2)(b) complained about the ESU officers breaking down his door, and about the handcuffs being too tight. He repeatedly asked what was going on and was using profanity.

PO Jimenez loosened the handcuffs, showed § 87(2)(b) a copy of the search warrant and stated, “There’s a search warrant. That’s why we’re here. Just relax until everything is over with.” He did not show § 87(2)(b) a document with his photo affixed to it. PO Jimenez is aware that a bench warrant had been issued for § 87(2)(b) but does not recall having a copy of it with him. At no point did § 87(2)(b) ask to see the search warrant again. Sgt. Terrell Anderson and PO Brian Moncayo were present at the time of this interaction.

PO Jimenez then asked § 87(2)(b) “If you know where the firearm is, let me know because I’m gonna find it either way.” He made this statement twice, but § 87(2)(b) refused to answer him. At no point did PO Jimenez say, “We ain’t got time to be bullshitting with you. Where’s the gun? Where’s the fucking gun?”

At no point did PO Jimenez strike § 87(2)(b) with a closed fist, nor did he see any other officer do so. The only instance in which physical force was used against § 87(2)(b) consisted of ESU officers bringing him to the floor once they entered the premises. PO Jimenez does not believe that the ESU officers struck § 87(2)(b) in any way as they subdued him.

PO Jimenez stood by § 87(2)(b) for approximately 5 minutes before the ESU officers informed him that the premises was safe. PO Jimenez then left § 87(2)(b) in the custody of Sgt. Anderson and went upstairs to search for the firearm with Sgt. Patrick McCarthy, the 79th Precinct’s field intelligence officer. PO Moncayo went to the basement, and then reunited with PO Jimenez on the third floor. The two then returned to the first floor together to continue the search.

PO Jimenez and PO Moncayo recovered a firearm near the staircase on the first floor. They then informed the rest of their team that the firearm had been found. PO Jimenez placed the firearm in his coat pocket and did not present it to § 87(2)(b) at any point. After recovering the firearm, PO Jimenez said to § 87(2)(b) “You gonna be a gentleman, right? I’m gonna uncuff you. Put your clothes on. It’s over with. We found the firearm.” PO Jimenez then uncuffed § 87(2)(b) and escorted him upstairs, where § 87(2)(b) got dressed. PO Jimenez then handcuffed him again.

He describes § 87(2)(b)’s demeanor as angry but not combative when he was uncuffed and led upstairs. At no point did § 87(2)(b) make any physical movements or hand gestures to indicate that he was being noncompliant.

PO Jimenez does not believe that he transported § 87(2)(b) to the 79th Precinct stationhouse, but recalls that § 87(2)(b) and § 87(2)(b) were transported separately. He does not know which officer brought § 87(2)(b) to the stationhouse, nor in what vehicle he was transported. At the stationhouse, PO Jimenez fingerprinted § 87(2)(b) and photographed him, but did not ask him any questions.

As PO Jimenez fingerprinted him, § 87(2)(b) asked for a cup of water and a Snickers bar, with which PO Jimenez provided him. At no point did § 87(2)(b) request medical attention or say that he needed a doctor or paramedics, nor did he complain of any physical ailments.

Subject Officer: SGT. TERRELL ANDERSON

- Sgt. Terrell Anderson is a § 87(2)(b)
- On January 14, 2012, Sgt. Anderson worked between the hours of 4:30 a.m. and 2:15 p.m. He was in

plainclothes and assigned to PBBN AC in an unmarked gold Ford Crown Victoria, RMP # 8868. He was working with PO Charne Jimenez, PO Brian Moncayo, PO Javier Velez and Capt. George Mifsud of the same command.

Memo Book

At 5:20 a.m., Sgt. Anderson was en route to the 79th Precinct stationhouse from the 77th Precinct stationhouse with PO Jimenez. At 5:35 a.m., the two attended a tactical meeting with a group of ESU officers.

At 7 a.m., Sgt. Anderson and PO Jimenez arrived at § 87(2)(b) with the ESU officers to execute a search warrant. At 8:30 a.m., two individuals were placed under arrest at the location for criminal possession of a firearm. At 8:40 a.m., Sgt. Anderson returned to the 79th Precinct stationhouse to process the arrests and supervise property vouchering. At 1 p.m., he went to the 77th Precinct (encl. 8a-8b).

CCRB Testimony

Sgt. Terrell Anderson was interviewed at the CCRB on February 16, 2013 (encl. 8c-8e).

At approximately 7 a.m. on January 14, 2012, Sgt. Anderson stood outside § 87(2)(b) in Brooklyn for approximately five to eight minutes as a number of ESU officers gained entry to the three-story private residence. He does not recall how many ESU officers there were, or any of their names. The ESU officers then informed Sgt. Anderson and his team that the premises was secure, and he entered.

Sgt. Anderson does not recall which member of his team entered first, or whether it was he who did so. When he did enter the house, he observed § 87(2)(b) in handcuffs, seated on the sofa in the living room. § 87(2)(b) was asking why the officers had entered his house and whether they had a search warrant, but never asked to be shown one.

Sgt. Anderson did not show § 87(2)(b) a document of any sort, nor does he recall whether PO Jimenez did so. The only verbal interaction Sgt. Anderson had with § 87(2)(b) was to ask him where the firearm was. He did not question him about the presence of drugs in the house. Sgt. Anderson then went directly to the third floor. There, he instructed PO Jimenez and PO Moncayo to search for the firearm. While they did so, PO Montes handcuffed § 87(2)(b).

Sgt. Anderson then accompanied PO Jimenez and PO Moncayo as they made their way downstairs in search of the firearm. When they reached the ground floor, Sgt. Anderson stood by § 87(2)(b) for approximately 15 minutes as PO Jimenez and PO Moncayo continued their search in between the living room and dining area. There, PO Jimenez found the firearm inside a VHS tape on a shelf. Sgt. Anderson does not recall whether § 87(2)(b) was brought down to the ground floor or whether he remained on the third floor during the incident.

PO Jimenez did not bring the firearm back to where § 87(2)(b) and Sgt. Anderson were, nor did he present it to § 87(2)(b) at any point. Sgt. Anderson does not recall where PO Jimenez went immediately after retrieving the firearm. At no point did Sgt. Anderson or PO Jimenez say to § 87(2)(b) “We ain’t got time to be bullshitting with you. Where’s the gun? Where’s the fucking gun?” or any variation thereof.

Sgt. Anderson did not strike § 87(2)(b) with a closed fist, nor did he see PO Jimenez or any other officer do so. Sgt. Anderson did not have any physical contact with § 87(2)(b) whatsoever during the incident. He did not escort § 87(2)(b) off the premises and does not recall who did.

After completing the search warrant execution, Sgt. Anderson returned to the 79th Precinct stationhouse. § 87(2)(b) was still there when Sgt. Anderson arrived, but the two did not interact verbally at any point. At no point did Sgt. Anderson hear § 87(2)(b) request medical attention of any kind.

Subject Officer: PO ALEXANDRO BERRIOS

- *PO Alexandro Berrios is a § 87(2)(b)*
- *On January 13, 2012, PO Berrios of the 79th Precinct worked between the hours of 11:15 p.m. and 7:50 a.m. on January 14, 2012. He was in uniform, working alone and assigned to the cells.*

Memo Book

PO Berrios does not have any entries in his memo book regarding this incident.

CCRB Testimony

PO Alexandro Berrios was interviewed at the CCRB on March 29, 2013 (encl. 8f-8g).

PO Berrios does not recall how many prisoners were in the cells at approximately 7:30 a.m. on January 14, 2012, nor does he recall interacting with any of them. He does not recall a prisoner complaining of any physical ailment or requesting medical treatment. PO Berrios does not recall a prisoner saying to him, "I need to see a doctor. I need the paramedics."

He does not recall ever interacting with either § 87(2)(b) or § 87(2)(b)

Witness Officer: PO BRIAN MONCAYO

- *PO Brian Moncayo is a § 87(2)(b)*
- *PO Moncayo does not recall what hours he worked on January 14, 2012, or with whom. He was in plainclothes and assigned to PBBN AC in an unmarked vehicle.*

Memo Book

PO Moncayo's memo book containing the entry related to this incident was destroyed by flooding during Hurricane Sandy. It was stored in the basement of PO Moncayo's private residence. On May 3, 2013, the NYPD MAS confirmed that a UF-61 documenting the memo book's destruction has not been filed (encl. 24p).

CCRB Testimony

PO Brian Moncayo was interviewed at the CCRB on February 20, 2013 (encl. 7a-7b).

PO Moncayo has no recollection of participating in a search warrant execution at § 87(2)(b) on January 14, 2012. When presented with § 87(2)(b)'s photo, PO Moncayo could not recall having ever interacted with him, nor did his name sound familiar. Likewise, when presented with a photograph of § 87(2)(b) PO Moncayo could not recall having ever interacted with him.

Officers Not Interviewed

PO Charne Jimenez and Sgt. Terrell Anderson identified the only other officer present in the living room during their interaction with § 87(2)(b) as PO Brian Moncayo. § 87(2)(b) stated that, aside from PO Jimenez and Sgt. Anderson, only one other officer was present in the living room at the time the alleged misconduct occurred. § 87(2)(b) however, provided no physical descriptions of any officers involved in the entry and search aside from PO Jimenez and Sgt. Anderson, and identified only PO Jimenez by name.

PO Moncayo was therefore interviewed as a witness in this case. The investigation determined that it was not necessary to obtain statements from PO Juan Montes, Sgt. Patrick McCarthy, Capt. George Mifsud and PO Javier Velez, as their testimony would not affect the recommended dispositions.

Medical Records

Triage Form

The Triage Form prepared during § 87(2)(b)'s visit to § 87(2)(b) indicates that § 87(2)(b) was complaining of pain to the left side of his chest and a headache. He characterized his level of pain as a seven on a 10-point scale. The form is dated § 87(2)(b) encl. 9a-9b).

Emergency Physician Record

The Emergency Physician Record prepared for § 87(2)(b) at § 87(2)(b), dated § 87(2)(b), indicates that § 87(2)(b) was suffering from chest pain. § 87(2)(b) (encl. 9c-9d).

NYPD Documents

Roll Call

The PBBN AC Roll Call from January 14, 2012 lists Sgt. Terrell Anderson as the Anti-Crime Supervisor. The Anti-Crime Unit consisted of PO Juan Montes, PO Charne Jimenez, PO Brian Moncayo and PO Javier Velez. The tours of PO Montes, PO Jimenez, PO Moncayo and PO Velez were modified to accommodate the fact that they were scheduled to execute a search warrant that morning (encl. 13r-13u).

Prisoner Holding Pen Roster

The 79th Precinct Holding Pen Roster from January 14, 2012 lists § 87(2)(b) and § 87(2)(b) as having been transported to the cells at 9:05 a.m. No time is listed for when they were removed from the cells (16a-16b).

Search Warrant Confirmation Form

On March 27, 2012, PO Angela Edwards of the NYPD Monitoring and Analysis Section (MAS) confirmed the presence of search warrant § 87(2)(b) which was obtained on § 87(2)(b) in § 87(2)(b) County. The warrant was signed by § 87(2)(b) and § 87(2)(b), and requested by Sgt. Patrick McCarthy of PBBN AC. The warrant was executed on January 14, 2012, and was supervised by Capt. Clint McPherson of PBBN AC (encl. 24i).

ESU Warrant Execution Supplemental Report

The report lists PO Jimenez as the arresting officer, and Sgt. McCarthy as the member of service requesting ESU assistance. It indicates that entry to the premises was forced for this no-knock warrant, and that no distraction device was used. The tactical entry team consisted of 11 ESU personnel.

The report further indicates that a § 87(2)(b)-old black male was cuffed by Det. Chiarmonite in the front hallway, and that a § 87(2)(b)-old black male was cuffed by Det. Vahey in the 3rd floor bedroom (encl. 17d-17e).

Property Voucher # § 87(2)(b)

Property Voucher # § 87(2)(b) indicates that a Colt .380-caliber automatic pistol was recovered from a VHS cover on a shelf. One .380-caliber magazine was recovered from the pistol. A .380-caliber ammunition cartridge was found in the chamber of the pistol, and cartridges of varying calibers were recovered from the magazine. 45 additional cartridges were recovered from a nightstand in § 87(2)(b)'s bedroom (encl. 18a-18b).

Property Voucher # § 87(2)(b)

Property Voucher # § 87(2)(b) lists 5 packages of marijuana of various sizes as being recovered

from the premises (encl. 18c-18d).

§ 87(2)(b)

Status of Civil Proceedings

- On March 1, 2012, § 87(2)(b) filed a Notice of Claim with the City of New York, claiming property damage as well as mental, physical and psychological distress. He is seeking an unspecified amount as redress (encl. 21a-21d). An inquiry regarding the status of this claim has been made to the New York City Law Department, and the results will be added to this report upon receipt (encl. 21e).

§ 87(2)(b)

Civilian's CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 2).

Subject Officers' CCRB History

- PO Charne Jimenez has been a member of the service for 7 years and there are no substantiated CCRB allegations against him. § 87(2)(g), § 87(4-b) (encl. 1a).
- Sgt. Terrell Anderson has been a member of the service for 9 years and there are 2 substantiated CCRB allegations against him. § 87(2)(g), § 87(4-b) (encl. 1b-1c):
 - In case number 201101623, the Board substantiated two premises entered and searched allegations against Sgt. Anderson. In each instance, the Board recommended charges and the NYPD imposed a command discipline.

Conclusion

Identification of Subject Officers

- PO Charne Jimenez and Sgt. Terrell Anderson acknowledged interacting with § 87(2)(b)
- § 87(2)(b) described the officer who failed to obtain medical treatment for him as a young black male officer in uniform, of average height and weight. PO Berrios is a 32-year-old, 5'7" tall, 160-pound Hispanic male with a dark complexion, who matches the description provided by § 87(2)(b). In addition, the 79th Precinct's Tour 1 Roll Call lists PO Alexandro Berrios as the officer assigned to the cells on the morning of January 14, 2012. § 87(2)(b) stated that the officer in question was seated behind a desk in the cell area. PO Berrios confirmed that while guarding the cells, he was seated behind a desk in the cell area. The Roll Call indicates that PO Berrios was

relieved by PO Frank Rufano, a 52-year-old white male. Consequently, Allegation F is pleaded against PO Alexandro Berrios of the 79th Precinct.

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: Officers entered and searched § 87(2)(b) in Brooklyn.

It is undisputed that 10 ESU detectives and one ESU sergeant entered § 87(2)(b) at approximately 7 a.m. on January 14, 2012. Once they secured the premises, PO Charne Jimenez, Sgt. Terrell Anderson, PO Brian Moncayo, PO Juan Montes and PO Javier Velez entered and searched the premises, recovering a pistol and a quantity of marijuana.

On March 27, 2012, the NYPD MAS unit confirmed the presence of search warrant # § 87(2)(b) which was obtained on § 87(2)(b) County, and executed on January 14, 2012 (encl. 24i). A copy of this search warrant was provided to the CCRB by ESU (encl. 6k-6n).

§ 87(2)(b), § 87(2)(g)

Allegation B – Discourtesy: At § 87(2)(b) in Brooklyn, PO Charne Jimenez spoke rudely to § 87(2)(b)

Allegation C - Discourtesy: At § 87(2)(b) in Brooklyn, Sgt. Terrell Anderson spoke rudely to § 87(2)(b)

§ 87(2)(b) stated that after retrieving two ounces of marijuana from the basement, PO Jimenez returned to the living room, questioned him about the whereabouts of drugs and a firearm, and added, “We ain’t got time to be bullshitting with you. Where’s the gun? Where’s the fucking gun?”

PO Jimenez denies having ever made that statement or using any profanity towards § 87(2)(b). He stated that he guarded § 87(2)(b) in the living room for approximately five minutes while eight to 10 ESU officers secured the premises. During that time, PO Jimenez informed § 87(2)(b) that he was there to execute a search warrant, which he presented to him. He did question § 87(2)(b) about the location of the firearm, but used no profanity while doing so. He did not hear Sgt. Anderson use profanity towards § 87(2)(b) at any point.

Sgt. Anderson stated that it was he who stood watch over § 87(2)(b) as PO Jimenez and PO Moncayo went to the basement. Upon their return, Sgt. § 87(2)(b) accompanied them upstairs. When they finished searching the second and third floors, Sgt. Anderson again accompanied PO Jimenez and PO Moncayo to the ground floor.

There, he stood beside § 87(2)(b) who was seated on the sofa in the living room. Sgt. Anderson did not address § 87(2)(b) verbally except to ask him where the firearm was. He used no profanity when doing so, and denies using any profanity towards § 87(2)(b) at any point during the incident. He did not hear PO Jimenez or any other officer use profanity while addressing § 87(2)(b).

Both PO Jimenez and Sgt. Anderson deny having made the discourteous statement alleged by § 87(2)(b). They further deny having ever used profanity while addressing § 87(2)(b).

§ 87(2)(g)

According to both § 87(2)(b) and PO Jimenez, § 87(2)(b) was in a bedroom upstairs at the time.

§ 87(2)(b), § 87(2)(g)

Allegation D – Abuse of Authority: At § 87(2)(b) in Brooklyn, PO Charne Jimenez refused to show a search warrant to § 87(2)(b)

§ 87(2)(b) alleged that when he asked PO Jimenez to show him a copy of the search warrant, PO Jimenez briefly presented him with a document to which his photograph was affixed. Underneath the photograph was writing which § 87(2)(b) could not clearly see. When § 87(2)(b) asked PO Jimenez to show him the document again, PO Jimenez informed him that his attorney would receive a copy.

PO Jimenez stated that he did show § 87(2)(b) a copy of the search warrant soon after he entered the house, but that § 87(2)(b) did not request to see it. He simply asked what was going on and was using profanity.

Sgt. Anderson does not recall § 87(2)(b) ever requesting to see a copy of the search warrant, nor did he see PO Jimenez or any other officer present him with one. Sgt. Anderson was not in possession of a copy of the search warrant, and had not reviewed it prior to arriving at § 87(2)(b)'s residence.

As per NYPD Patrol Guide Procedure 212-105, an officer must show a copy of a search warrant to any occupant of the premises to be searched, if the officer can do so safely (encl. A1-A6).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

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§ 87(2)(b), § 87(2)(g)

Allegation E – Force: At § 87(2)(b) in Brooklyn, PO Charne Jimenez used physical force against § 87(2)(b)

During his CCRB sworn statement, § 87(2)(b) alleged that PO Jimenez swung at him with a closed fist three times, connecting with the third blow. § 87(2)(b) was seated on the sofa and in handcuffs at the time.

However, in his handwritten narrative on the Notice of Claim form, he makes no mention of this allegation, except to say that his claim is in regards to ongoing police brutality, harassment and retaliation. Likewise, the letter § 87(2)(b) mailed to the CCRB to file his complaint made no mention of any physical force being used against him by any officer during the incident.

PO Jimenez denied using any physical force against § 87(2)(b). The only physical contact PO Jimenez had with § 87(2)(b) was to remove his handcuffs and take him upstairs to get dressed.

Sgt. Anderson stated that he did not see PO Jimenez strike § 87(2)(b) in the manner alleged. He also stated that he did not see PO Jimenez use any physical force against § 87(2)(b).

The Triage Form and Emergency Physician Record prepared for § 87(2)(b) at § 87(2)(b) after this incident make no mention of any lacerations or abrasions to his face, head or neck. He was quoted on the Triage Form as complaining of chest pain and a headache, but no physical injury caused by being struck in the face.

§ 87(2)(b)'s arrest photo reveals no bruising, swelling or other injury above his right eye, or anywhere else on his face.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation F – Abuse of Authority: At the 79th Precinct stationhouse, PO Alexandro Berrios refused to obtain medical treatment for § 87(2)(b)

§ 87(2)(b) stated that once he was placed in the cells at the 79th Precinct stationhouse, he informed PO Berrios, who was seated near the cells, that he needed medical treatment. § 87(2)(b) did not specify any physical ailments. PO Berrios replied, “Okay, we’ll get somebody down here.” However, § 87(2)(b) was not provided with any medical treatment until after he was transported to Brooklyn Central Booking.

PO Berrios, who was assigned to guard the cells on the morning of January 14, 2012, did not recall ever interacting with § 87(2)(b) or § 87(2)(b). He did not recall whether the two were in the cells that morning. PO Berrios had no recollection of any specific interaction with a prisoner in the cells, nor did he recall a prisoner requesting medical treatment or complaining of a physical ailment.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Team: 3

Investigator:	<u>Amgad Fawzy</u>	<u>05/03/2013</u>
	Signature	Date

Supervisor:	<u></u>	<u></u>
	Title/Signature	Date

Reviewer:	<u></u>	<u></u>
	Title/Signature	Date

Reviewer:	<u></u>	<u></u>
	Title/Signature	Date